

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| WILLIAM J. KIRSCH |) | FOIA Control Nos. 2013-151, 2013-291, |
| |) | 2013-310, 2013-356, 2013-358, 2013-410, |
| On Requests for Inspection of Records |) | 2013-411, 2013-430, 2013-456, 2013-479, |
| |) | 2013-480, 2013-484, 2013-503, 2013-511, |
| |) | 2013-512, 2013-513, 2013-514, 2013-534, |
| |) | 2013-535, 2013-538, 2013-539, 2013-543, |
| |) | 2013-550, 2013-551, 2013-553, 2013-560, |
| |) | 2014-031, 2014-041, and 2014-059 |

**ORDER ON RECONSIDERATION AND
MEMORANDUM OPINION AND ORDER**

Adopted: August 20, 2014**Released: August 22, 2014**

By the Commission:

I. INTRODUCTION

1. This order addresses twenty applications for review (AFR) and a petition for reconsideration (PFR) filed by William J. Kirsch in connection with his Freedom of Information Act (FOIA) and Privacy Act (PA) requests.¹ All of these are dismissed or denied, as explained below.

II. BACKGROUND

2. The FOIA requests covered by the twenty AFRs we address here, similar to numerous requests that Mr. Kirsch previously has made to the Commission under the Freedom of Information Act (FOIA) and Privacy Act (PA) beginning in August 2011, seek information generally related to his

¹ See Email from William Kirsch to Sean Lev, General Counsel, FCC (sent July 29, 2013 @11:38 pm) (AFR 1); Email from William Kirsch to Sean Lev, General Counsel, FCC (sent August 14, 2013 @2:59 am) (AFR 2); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent August 18, 2013 @8:18 am) (AFR 3); Email from William Kirsch to Sean Lev, General Counsel, FCC (sent August 26, 2013 @5:55 pm) (AFR 4); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent August 26, 2013 @11:07 pm) (AFR 5); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent August 29, 2013 @3:28 pm) (AFR 6); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent August 31, 2013 @4:35 pm) (AFR 7); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent September 4, 2013 @12:22 pm) (AFR 8); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent September 14, 2013 @6:32 am) (AFR 9); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent September 24, 2013 @2:54 am) (AFR 10); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent September 25, 2013 @9:55 am) (AFR 11); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent September 25, 2013 @10:28 am) (AFR 12); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent September 25, 2013 @4:32 pm) (AFR 13); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent September 26, 2013 @6:05 am) (AFR 14); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent October 21, 2013 @5:16 pm) (AFR 15); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent November 15, 2013 @11:09 pm) (AFR 16); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent November 15, 2013 @11:37 pm) (AFR 17); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent November 15, 2013 @1:05 pm) (AFR 18); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent November 16, 2013 @12:05 am) (AFR 19); Email from William J. Kirsch to Sean Lev, General Counsel, FCC (sent December 14, 2013 @10:43 am) (PFR/AFR 20).

employment at the Federal Communications Commission (FCC) during the 1990s,² his work experiences,³ and international telecommunications policies in general.⁴ In nearly every request, Mr. Kirsch has sought waiver of any associated FOIA fees. Mr. Kirsch also has filed numerous applications for review and petitions for reconsideration of the decisions of the Commission and its staff on his requests for information and waiver of fees.

3. The Commission has issued two orders addressing Mr. Kirsch's applications for review and petitions for reconsideration. The *First FOIA Order* released on October 26, 2012, denied three applications for review concerning three of Mr. Kirsch's FOIA and PA-related requests.⁵ The *Second FOIA Order* released on November 1, 2013, denied his petition for reconsideration of the *First FOIA Order* and dismissed or denied eleven applications for review, concerning another twenty-five FOIA- and PA-related requests made by Mr. Kirsch.⁶

4. In addition, the *Second FOIA Order* observed that Mr. Kirsch's requests for review in numerous instances did not raise discernable allegations of error under FOIA law, but rather contained general complaints about his employment at the FCC during the 1990s and international telecommunications policies, among other issues.⁷ The *Second FOIA Order* also noted Mr. Kirsch's propensity for filing numerous and repetitive FOIA AFRs and his repeated failure to specify particular errors in AFRs as required by section 1.115(b) of the Commission's rules.⁸ Thus, the *Second FOIA Order* reminded Mr. Kirsch that any future AFRs must comply with the Commission's rules, including section 1.115(b)⁹ by specifying particular alleged errors for which review is requested and indicating which Bureau or Office decision each argument pertains to.¹⁰ The Commission stated that Mr. Kirsch's failure to comply with these rules would lead to summary dismissal.¹¹

5. Between July 29, 2013 and December 14, 2013, Mr. Kirsch sent twenty emails, in which he made various challenges to decisions by the agency on twenty-nine initial FOIA requests. We treat each of the twenty filings as an application for review of the FOIA decision(s) identified in the filing.¹² In four AFRs concerning eight FOIA requests, Mr. Kirsch asserts that Commission staff did not conduct a sufficiently comprehensive search for responsive material.¹³ In ten of the AFRs concerning twenty FOIA

² See FOIA Control Nos. 2013-151 and 2013-550.

³ See FOIA Control No. 2013-151.

⁴ See FOIA Control Nos. 2013-291, 2013-310, 2013-356, 2013-358, 2013-410, 2013-411, 2013-430, 2013-456, 2013-479, 2013-480, 2013-484, 2013-503, 2013-511, 2013-512, 2013-513, 2013-514, 2013-534, 2013-535, 2013-538, 2013-539, 2013-543, 2013-551, 2013-553, 2013-560, 2014-031, 2014-041, and 2014-059.

⁵ See *In the Matter of William J. Kirsch on Requests for Inspection of Records*, FOIA Control Nos. 2011-552, 2012-176, and 2012-241, 27 FCC Rcd 13772 (2012) (*First FOIA Order*).

⁶ *In the Matter of William J. Kirsch on Requests for Inspection of Records*, FOIA Control Nos. 2011-552, 2012-176, 2012-241, 2012-294, 2013-019, 2013-073, 2013-118, 2013-151, 2013-152, 2013-291, 2013-298, 2013-299, 2013-300, 2013-301, 2013-302, 2013-303, 2013-304, 2013-305, 2013-306, 2013-307, 2013-308, 2013-309, 2013-310, 2013-311, 2013-356, 2013-357, 2013-358, and 2013-393, 28 FCC Rcd 15280 (2013) (*Second FOIA Order*).

⁷ *Second FOIA Order*, 28 FCC Rcd 15280, 15297 para. 42 (2013).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² See *supra* n.1 (referencing the filings as AFR 1, AFR 2, etc.). In addition, the filing designated PFR/AFR 20 also contains a petition for reconsideration. See *id.*

¹³ See AFR 1 at paras. 1, 2; AFR 2 at para. 1; AFR 7 at para. 1; AFR 8 at para. 1.

requests, Mr. Kirsch asserts that numerous Bureau and Office decisions related to his FOIA and PA requests were untimely issued.¹⁴ In addition to these FOIA issues, Mr. Kirsch requests recusal of then-FCC General Counsel Sean Lev¹⁵ and any other “person or persons with a close past or present association with Reed Hundt or Scott Blake Harris.”¹⁶

III. DISCUSSION

6. Consistent with our statement in the *Second FOIA Order* and as discussed further below, we summarily dismiss as procedurally defective the vast majority of the claims in Mr. Kirsch’s twenty AFRs.¹⁷ To the extent that they are not procedurally defective, the remaining claims in the AFRs raise only two sets of cognizable issues under FOIA law: whether a “reasonable” search was conducted by agency staff in response to Mr. Kirsch’s FOIA requests, and whether the agency’s actions on his FOIA requests were timely. As we discuss below, none of these claims has merit. In addition, any future claims filed by Mr. Kirsch that are procedurally defective also will be subject to summary dismissal.

A. Reasonable Search -- FOIA Control Nos. 2013-410, 2013-411, 2013-456, 2013-479, 2013-480, and 2013-484

7. We reject Mr. Kirsch’s claims that the Bureaus did not conduct reasonable searches in responding to FOIA Request Nos. 2013-410, 2013-411, 2013-456, 2013-479, 2013-480, and 2013-484.¹⁸ We find that in each of these cases, the agency conducted a reasonable search. Under the FOIA, an agency must conduct a search that is “reasonably calculated to uncover all relevant documents.”¹⁹ In FOIA Nos. 2013-410 and 411, Mr. Kirsch seeks communications to or from two former senior FCC officials concerning section 310 of the Communications Act, a provision that has been implemented in numerous proceedings recently handled by the International Bureau, and in FOIA No. 2013-456, documents concerning “FCC review of foreign influence on the North American Numbering Plan Administration and the National Pooling Administration,” which are programs primarily coordinated with the Wireline Competition Bureau. Mr. Kirsch seeks information concerning the Softbank acquisition of Sprint in FOIA No. 2013-479, a proceeding that was handled by IB, and the African Growth and Opportunity Act and the Generalized System of Preferences in FOIA Nos. 2013-480 and 2013-484, respectively, both of which are related to international telecommunications. Each of these requests properly was directed to the Bureau that, as indicated, is generally responsible for the subject matter identified in the request²⁰ and is the custodian of the type of records sought, for response to Mr. Kirsch.²¹

¹⁴ See AFR 2 at para. 3; AFR 4 at para. 1; AFR 10 at para. 5; AFR 12 at para. 2; AFR 14 at para. 2; AFR 15 at para. 3; AFR 16 at para. 1; AFR 17 at para. 1; AFR 18 at para. 2; and AFR 19 at para. 1.

¹⁵ See AFR 8 (“Petitioner requests the voluntary recusal or mandatory withdrawal of the General Counsel based on his close association with the former Chief of the International Bureau (during their joint tenure at the Department of Energy) now General Counsel at the Plan Administrator in order to avoid even the appearance of impropriety”).

¹⁶ See AFR 10.

¹⁷ See para. 10 *infra*.

¹⁸ See n.13 *supra*. The remaining two reasonable search claims, as to FOIA Control Nos. 2013-356 and 2013-430, are dismissed as procedurally defective. See para. 10 *infra*.

¹⁹ *Weisberg v. U.S. Dep’t of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983); see *Campbell v. U.S. Dep’t of Justice*, 164 F.3d 20, 27 (D.C. Cir. 1998); *Light v. Department of Justice*, 968 F.Supp.2d. 11, 23 (D.D.C. 2013) (FBI “not required to search every record system; it was only required to conduct a reasonable search of those systems of records likely to possess the requested information”); *Sennett v. Department of Justice*, 962 F.Supp.2d.270, 278-79 (D.D.C. 2013) (FBI not required to search surveillance files in absence of any indication that search would reveal responsive records); see also *Meeropol v. Meese*, 790 F.2d 942, 952–53 (D.C. Cir. 1986) (search is not presumed unreasonable simply because it fails to produce all relevant material).

²⁰ See 47 C.F.R. §§ 0.51 (functions of the International Bureau), 0.91 (functions of the Wireline Competition Bureau).

Consistent with usual practice, staff in all Bureaus and Offices with responsibilities related to the subject matter and potentially likely to have any responsive documents searched their files for responsive material.²² Further, all of the initial requests in these cases are stated by Mr. Kirsch in broad, sweeping terms and do not identify any specific document or type of document sought. In addition, as we have noted previously, Mr. Kirsch has never responded to any of the numerous staff attempts to obtain additional clarity or specificity as to his FOIA- or PA-related requests. Even in the pending AFRs before us, Mr. Kirsch still does not identify any specific document or type of document he seeks. Mr. Kirsch offers no reason, nor do we see any, why any of the searches conducted in response to his requests was inadequate or to instruct the staff to extend their search to any of the additional Bureaus and Offices he identifies. Thus, we find that the searches conducted by staff in response to Mr. Kirsch's requests in FOIA Nos. 2013-410, 2013-411, 2013-456, 2013-479, 2013-480, 2013-484 were reasonable and deny the AFRs on this issue.²³

B. Untimeliness – FOIA Control Nos. 2013-151, 2013-291, 2013-358, 2013-430, 2013-503, 2013-511, 2013-512, 2013-513, 2013-514, 2013-534, 2013-535, 2013-538, 2013-539, 2013-543, 2013-550, 2013-551, 2013-553, 2013-560, 2014-031, and 2014-041

8. We reject Mr. Kirsch's claims that numerous decisions issued by Commission staff in response to his FOIA and PA requests are untimely.²⁴ Some of these claims of untimely responses are premature, because no response had been issued or was even due at the time the AFR was filed, and we dismiss them.²⁵ We deny the remaining untimeliness claims as either erroneous on their face, because the decisions referenced were issued by Commission staff within applicable deadlines,²⁶ or were rendered moot by subsequent agency action.²⁷

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²¹ 47 C.F.R. § 0.461.

²² For instance, although the Wireline Competition Bureau issued the response in FOIA No. 2013-456 advising Mr. Kirsch that the Commission does not have records concerning "FCC review of foreign influence on the North American Numbering Plan Administration and the National Pooling Administration," the response reflected input from the International Bureau as well. Letter from Kirk S. Burgee, Chief of Staff, Wireline Competition Bureau, to William Kirsch re: FOIA No. 2013-456 (dated Sept. 3, 2013).

²³ See *Judicial Watch, Inc. v. U.S. Dept. of Homeland Sec.*, 857 F.Supp.2d 129, 145 (D.D.C. 2012).

²⁴ See n.15 *supra*.

²⁵ See AFR 15 (alleging "untimely response(s), if any" in FOIA Control Nos. 2013-503, 2013-511, 2013-512, 2013-513, 2013-514, 2013-534, 2013-535, 2013-538, 2013-539, 2013-543, 2013-550, 2013-551, and 2013-553). We note that the September 23, 2013 decision denying all thirteen fee waiver requests, and the subsequent responses in FOIA Control Nos. 2013-512, 2013-513, 2013-514, and 2013-553, were issued before the applicable FOIA response deadlines, and therefore are timely. Because the deadline for the responses on the merits of the thirteen requests was tolled by the September 23, 2013 fee waiver denial, the AFR 15 filed on October 21, 2013 alleging untimely responses was premature with respect to the responses in FOIA Control Nos. 2013-503, 2013-511, 2013-534, 2013-535, 2013-538, 2013-539, 2013-543, 2013-550, and 2013-551, for which no responses had been issued by that date. Mr. Kirsch's allegation of "untimely denials" in AFR 19 filed on November 18, 2013, is premature for similar reasons as to FOIA Control Nos. 2014-031 and 2014-041, because the deadline had been tolled and the FOIA response had not been issued.

²⁶ All of the fee waiver decisions issued in cases identified by Mr. Kirsch, except FOIA 2013-560, were issued prior to the initial FOIA response deadline and thus were timely. In addition, all of the substantive FOIA responses identified by Mr. Kirsch, except FOIA 2013-291, 2013-538, and 2013-551, were issued within the applicable deadline, whether the deadline was initially assigned or was tolled due to a denial of the fee waiver request.

²⁷ Although the November 13, 2013 response in FOIA Control No. 2013-291, the November 20, 2013 response in FOIA Control No. 2013-538, the November 14, 2013 response in FOIA Control No. 2013-551, and the November 12, 2013 fee waiver denial in FOIA Control No. 2013-560 were issued after the applicable FOIA deadlines in our rules, as the Commission advised in the *Second FOIA Order*, an agency may cure a failure to respond within a statutory time limit by responding before a requester goes to court. See *Second FOIA Order* at para.6 n.20 (citing

(continued....)

C. Remaining Issues

9. We dismiss as moot Mr. Kirsch's recusal requests in AFR 8 and AFR 10, seeking the recusal of then-FCC General Counsel Sean Lev²⁸ and any other "person or persons with a close past or present association with Reed Hundt or Scott Blake Harris."²⁹ In the *Second FOIA Order* issued on November 1, 2013, the Commission concluded that Mr. Kirsch's previous, similar recusal request was wholly unsubstantiated and without merit.³⁰ Nevertheless, as in that proceeding, former FCC General Counsel Sean Lev, who left the agency in December 2013, did not participate substantively on the merits of this order.

10. We dismiss the remainder of Mr. Kirsch's twenty AFRs. Insofar as we are able to discern Mr. Kirsch's arguments,³¹ we dismiss them as procedurally defective. Mr. Kirsch's reasonable search claim as to FOIA Control No. 2013-430 is dismissed because his request,³² as IB determined, was insufficiently described to conduct any reasonable search³³ and was closed after Mr. Kirsch failed to provide any clarification.³⁴ Many of Mr. Kirsch's arguments are untimely and we dismiss them on that basis.³⁵ Specifically, we dismiss AFR 2 as untimely insofar as it requests review of FOIA Control No.

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Oglesby v. U.S. Dep't of the Army, 920 F.2d 57, 63-64 (D.C. Cir. 1990) (agency may "cure" failure to respond to a FOIA request within the statutory time period by responding before the requester seeks judicial intervention) and *Gottlieb v. Peña*, 41 F.3d 730, 734 (D.C. Cir. 1994) (failure to meet statutory deadline does not divest agency of authority to act absent a default consequence)); *see also Voinche v. FBI*, 999 F.2d 962, 963 (5th Cir. 1993) (court challenge to timeliness of agency's FOIA decision is rendered moot by agency's response to the request).

²⁸ *See* AFR 8 ("Petitioner requests the voluntary recusal or mandatory withdrawal of the General Counsel based on his close association with the former Chief of the International Bureau (during their joint tenure at the Department of Energy) now General Counsel at the Plan Administrator in order to avoid even the appearance of impropriety").

²⁹ *See* AFR 10.

³⁰ *Second FOIA Order*, 28 FCC Rcd 15280, 15291 para. 27 n.92.

³¹ There are numerous assertions and requests in the AFRs that contain nothing to address. *See, e.g.*, AFR 8 (linking an alleged "failure" of the World Trade Organization Agreement on Basic Telecommunications to "the prospect of the failure of the United Nations").

³² *See* AFR 1 (asserting that his request in FOIA Control No. 2013-430, which sought "any and all information concerning subsidy payments under FCC decisions to foreign-owned carriers in the United States both in dollar and percentage terms," insofar as it concerns participation of such carriers in "the high cost fund, lifeline assistance or subsidies in other programs, such as assistance to schools, libraries or health care institutions under the Telecom Act of 1996 or other legislation or programs," should have been assigned to "the domestic bureaus involved" in addition to the IB).

³³ In particular, Mr. Kirsch's broad references to "subsidy payments" and "foreign-owned carriers" do not indicate any particular document, type of document, or proceeding to which his request may pertain. In addition, any responsive information the Commission may have concerning "subsidy payments under FCC decisions" would not distinguish foreign-owned from other carriers in the U.S. Thus, even assuming the staff could have made reasonable assumptions as to these broad, vague references for purposes of his request, staff would have had to perform a substantial amount of research in order to identify responsive information. The FOIA, however, does not require an agency to answer questions posed as FOIA requests or to create records in order to respond to a request. *See, e.g., Amnesty Int'l v. CIA*, No. 07-5435, 2008 WL 2519908, **12-13 (S.D.N.Y. June 19, 2008); *Ivey v. U.S. Office of Special Counsel*, No. 05-0176, 2005 U.S. Dist. LEXIS 18874, *8 (D.D.C. Aug. 31, 2005); *Barber v. Office of Info. & Privacy*, No. 02-1748, slip op., 4 (D.D.C. Sept. 4, 2003), *aff'd per curiam*, No. 03-5266 (D.C. Cir. Feb. 20, 2004).

³⁴ *See* Letter from James L. Ball, Chief, Policy Division, International Bureau to William Kirsch (dated July 26, 2013).

³⁵ Mr. Kirsch has failed to comply with the applicable filing deadlines set forth in the Commission's rules numerous times previously. *See First FOIA Order*, 27 FCC Rcd 13772, 13776-77 para. 10; *Second FOIA Order*, 28 FCC Rcd 15280, 15286 para. 12, 15292-93 para. 32, 15295 para. 38, and 15296 para. 40.

2013-356³⁶ and the fee waiver denial in FOIA Control No. 2013-358.³⁷ AFR 5, generally requesting “grant of [Mr. Kirsch’s PA] correction request” in FOIA Control Nos. “2011-552 et seq[.],” was addressed in the *Second FOIA Order* and is moot.³⁸ We dismiss AFR 6 and AFR 8 as untimely insofar as each requests amendment of Mr. Kirsch’s appeal in 2013-310.³⁹ We also dismiss as untimely, by several months, Mr. Kirsch’s request in AFR 8 to amend his petition for reconsideration of the *First FOIA Order*⁴⁰ and his request in AFR 16 for review of FOIA Control No. 2013-151.⁴¹ We dismiss as untimely AFR 17’s request for review of the decisions to deny a fee waiver in FOIA Control Nos. 2013-503, 2013-511, and 2013-551.⁴² Finally, the portions of PFR/AFR 20 that request reconsideration of the *Second FOIA Order*, and object to the fee waiver denial in FOIA Control No. 2013-539, are untimely and dismissed.⁴³ Otherwise, the AFRs fail to identify the Bureau or Office decision or decisions that the argument pertains to,⁴⁴ or fail to raise discernable allegations of error under FOIA law,⁴⁵ and are dismissed.

³⁶ AFR 2 challenges FOIA Control No. 2013-356 on reasonable search grounds, among other things. *See supra* n.13.

³⁷ AFR 2 was filed on August 14, 2013, and therefore beyond the 30-day deadline as to a request for review of the July 1, 2013 decision denying Mr. Kirsch’s requests for fee waiver in FOIA Control Nos. 2013-356 and 2013-358, and the IB’s July 10, 2013 FOIA response in FOIA Control No. 2013-356. *See* 47 C.F.R. §§ 0.461(j), 1.115(d), Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, Office of General Counsel, to William J. Kirsch (dated July 1, 2013); Letter from James L. Ball, Chief, Policy Division, International Bureau (dated July 10, 2013).

³⁸ *See Second FOIA Order*, 28 FCC Rcd 15280, 15281-82 para. 4 (finding no basis for any change to the *First FOIA Order*’s characterization of Mr. Kirsch’s status and reminding him that a FOIA proceeding is not the appropriate avenue for the correction of personnel records).

³⁹ AFR 6 was filed on August 29, 2013, and AFR 8 was filed on September 4, 2013. The AFRs are therefore beyond the 30-day deadline as to a request for review of the May 10, 2013 decision denying Mr. Kirsch’s request for fee waiver, and the PSHSB’s June 12, 2013 FOIA response. *See* 47 C.F.R. §§ 0.461(j), 1.115(d); Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, Office of General Counsel, to William J. Kirsch (dated May 10, 2013); Letter from Thomas Beers, Chief, Policy Licensing Division, Public Safety and Homeland Security Bureau (dated June 12, 2013).

⁴⁰ The 30-day deadline for filing a petition for reconsideration of the *First FOIA Order* fell on November 26, 2012, yet AFR 8 was filed nearly a year later, on September 4, 2013.

⁴¹ The Office of General Counsel responded to FOIA Control No. 2013-151 on February 22, 2013, denying Mr. Kirsch’s request for fee waiver and providing a fee estimate. *See* Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, to William J. Kirsch (dated Feb. 22, 2013). FOIA Control No. 2013-151 was closed subsequently because Mr. Kirsch failed to agree to payment of fees or otherwise narrow or clarify his request. AFR 16 was filed on November 15, 2013, several months beyond the 30-day deadlines applicable to these actions.

⁴² The Office of General Counsel denied Mr. Kirsch’s requests for fee waiver in these three cases in a letter dated September 23, 2013. *See* Letter from Joel Kaufman, Associate General Counsel and Chief, Administrative Law Division, to William J. Kirsch (dated Sept. 23, 2013). Thus, any application for review was due on October 23, 2013. *See* 47 C.F.R. §§ 0.461(j), 1.115(d). AFR 17 was filed on November 15, 2013.

⁴³ PFR/AFR 20, dated Saturday, December 14, 2013, was filed on Monday, December 16, 2013, the following business day. It contains a request for reconsideration of the *Second FOIA Order* that was released on November 1, 2013, and is therefore well beyond the 30-day reconsideration deadline that fell on December 2, 2013. Also, insofar as it challenges the September 23, 2013 decision denying a fee waiver in 2013-539 and other FOIA cases, it is untimely. *See* 47 C.F.R. §§ 1.106(f), 0.461(j), 1.115(d).

⁴⁴ *See, e.g.*, AFR 9 (generally requesting amendment of his “Petition for Reconsideration, FOIA Appeals and Privacy Act Correction Request” and grant of his “requests ... and waive[r] of” any and all attempts to impose fees related to his requests,” but identifying no particular decision to which these requests pertain); AFRs 11, 12 (alleging grounds for review that bear no apparent connection to the FOIA decision identified in the AFR subject line).

IV. ORDERING CLAUSES

11. ACCORDINGLY, IT IS ORDERED that the twenty email filings from William J. Kirsch in FOIA Control Nos. 2013-151, 2013-291, 2013-310, 2013-356, 2013-358, 2013-410, 2013-411, 2013-430, 2013-456, 2013-479, 2013-480, 2013-484, 2013-503, 2013-511, 2013-512, 2013-513, 2013-514, 2013-534, 2013-535, 2013-538, 2013-539, 2013-543, 2013-550, 2013-551, 2013-553, 2013-560, 2014-031, 2014-041, and 2014-059 ARE DISMISSED OR DENIED, as set forth herein. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).⁴⁶

12. The officials responsible for this action are the following: Chairman Wheeler, and Commissioners Clyburn, Rosenworcel, Pai, and O’Rielly.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

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⁴⁵ See, e.g., PFR/AFR 20 (referencing numerous FOIA and PA appeals by FOIA Control No. but alleging no more than “clear error, arbitrary and capricious reasoning and an abuse of discretion that has denied petitioner both substantive and procedural due process” as to any of them, and alleging “*prima facie* evidence of official misconduct” as to FOIA Control No. 2013-538, and a generalized [and untimely] objection to the September 23, 2013 denial of his fee waiver request in FOIA Control No. 2013-539).

⁴⁶ We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect Mr. Kirsch’s right to pursue litigation. Mr. Kirsch may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448.